IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO.3700 OF 2004

Raju Sidram Malgai & Ors. ... Applicants

V/s.

State of Maharashtra ... Respondent

Mr.P.P. Hudlikar with U.R. Agandsurve for Applicants
Mr.B.H. Mehta, APP, for Respondent
Mr.V.V. Purwant for Complainant

CORAM: **A.M. KHANWILKAR, J.**

DATED: **SEPTEMBER 7, 2004**

P.C.:

. Heard Counsel for the parties including Mr.Purwant, who is appearing for the complainant. After going through the records produced before me, it is seen that none of the witnesses have mentioned about the involvement of the applicants before the incident of assault or even at the time of the assault whereas reference to applicant No.2 has been made in the statement of Sidhram Dayaram Gowda Koli which only indicates that applicant No.2 arrived on the scene after the incident was over. Indeed, the applicants are also charged with Sections 149, 120(B) of the Indian Penal Code. The learned Assistant Public Prosecutor fairly accepts that, prima facie, there is no clear evidence so as to indicate the involvement of the applicants in

conspiracy before the actual assault. Only circumstance that is pressed into service on behalf of the prosecution is that after the incident all the accused persons came together and celebrated by taking bath in the well and also burning their clothes soon thereafter. However, that by itself cannot be the basis to assume at this stage that the applicants herein were engaged alongwith the other accused, who actually assaulted the deceased. Taking an overall view of the matter, the applicants deserve to be enlarged on bail especially because the investigation is now completed and chargesheet has also been filed in Court. The applicants, to my mind, can be released on bail on the following conditions:

i) The applicants are released on bail in relation to the offence registered as C.R. No.79 of 2004 with Faujdar Chawdi Police Station, Pune on executing a personal bond and furnishing two sureties in the amount of Rs.25,000/- each during the pendency of the trial.

ii) In addition, the applicants shall not enter the jurisdiction of Solapur city for a period of six months from the date of release, except to attend the Court proceedings on the

appointed dates. It will be open to the applicants to apply for relaxation of this condition after expiry of six months period.

iii) The applicant shall report at Tulzapur Police Station once in a fortnight on Saturday between 11 am and 4 pm or on such other dates as may be required by concerned police station.

iv) The applicant shall not influence any prosecution witness in any manner or attempt to tamper with the prosecution evidence during the pendency of the trial.

v) The applicant shall extend full cooperation for early disposal of the trial.

3. Application is allowed on the above conditions.